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July 15, 2025

VIA ECF

Honorable J. Brendan Day, United States Magistrate Judge
United States District Court, District of New Jersey
Clarkson S. Fisher Building & U.S. Courthouse
402 East State Street
Trenton, New Jersey 08608

Re: Augustyn v. Wall Twp. Board of Education
Case No.: 3:20-cv-05218-JBD
USCA Mandate

Dear Judge Day:

This office represents the interests of the Wall Township Board of Education in the above captioned matter. This office opposes the proposed Order submitted by opposing counsel earlier today.

Please be aware that this office has been in communication with opposing counsel via electronic mail since June 18, 2025. Both parties agreed that once the District's Request for an En Banc Hearing was decided, they would speak again. Once the Request was denied by the Third Circuit Court of Appeals, opposing counsel submitted a proposed settlement offer to this office on June 23, 2025. Due to the end of the school year and most of the District's administration being out of the office until after the Fourth of July, this office informed opposing counsel that we would let him know once the District provided its response, and we agreed counsel would ask for an extension to file the proposed Order. I was able to speak to my client yesterday, July 14, 2025, and I emailed opposing counsel to inform him that the District did not accept the settlement because they did not view the requested amount as an offer to settle. This office stated it seemed that the parties would need to submit separate orders, but opposing counsel did not respond to this office's email prior to filing his proposed Order with the Court.

The District objects to the proposed Order submitted by opposing counsel because it does not accurately set forth the Mandate from the Third Circuit to recalculate fees with less reliance upon Petitioner's results.

In prior email communications with opposing counsel, he stated that he would “request the Court set a schedule for a renewed fee application, as ordered by the Third Circuit.” Opposing counsel’s proposed Order attempts to skip any further analysis of his fee application or a reconsideration. He instead requests that the Court order the full lodestar amount with no reduction. This request directly contravenes the Third Circuit’s decision which remanded the matter back for another analysis of the fees requested, not to simply enter judgment against the District for whatever amounts Plaintiff seeks.

Thank you for your consideration of this matter.

Respectfully submitted,

KENNEY GROSS KOVATS & PARTON

Gabrielle A. Pettineo

Enc.

cc: John Rue, Esq. (*via ECF*)
Kelly Bond, Director of Special Services (*via electronic mail*)